



## **Kyl/Feinstein Crime Victims' Rights Bill Signed into Law**

November 1, 2004

**Washington, DC** – President George W. Bush has signed into law legislation that was sponsored in the Senate by U.S. Senators Jon Kyl (R-AZ) and Dianne Feinstein (D-Calif.) to give victims of violent crime a core set of procedural rights under federal law and ensure that they have standing to assert their rights before a court.

The President signed the legislation on Saturday.

When the bill was introduced in the Senate, it was named for five victims of violent crime: Scott Campbell of San Juan Capistrano, CA; Stephanie Roper of Upper Marlboro, MD; Wendy Preston of Venice, FL; Louarna Gillis, Alhambra, CA; and Nila Lynn of Sun City, AZ. Their stories are available upon request.

**“Ever since the development of the public prosecutor in the mid-19<sup>th</sup> Century, victims of violent crimes have been disadvantaged in American courts,”** Senator Feinstein said. **“For eight years, Senator Kyl and I have been working to change this and ensure that crime victims are treated fairly and with respect. We would have preferred to do this through a constitutional amendment, but unfortunately there were not the necessary 67 votes in the Senate.”**

**“Today, however, legislation was signed into law which is a step toward balancing the scales of justice. This law, while not a constitutional amendment, will apply to all federal crimes and will give victims a number of basic rights including:**

- **The right to be present in a courtroom;**
- **The right to be noticed of a trial;**
- **The right to be heard;**
- **The right to know when an attacker is released;**
- **The right to restitution if ordered by a judge; and**
- **The right to be treated with fairness and respect.**

**Opponents of a constitutional amendment have argued that a statute would be enough. I will be watching carefully to ensure that this law works as intended. If it does not, I can assure you that we will be back.”**

### **Rights**

The legislation gives victims eight specific rights under civil law including the right to:

- **Be reasonably protected** from the accused offender;

- **Reasonable and timely notice** of any public proceeding involving the crime or of any release or escape of the accused;
- **Not be excluded** from any such public proceeding;
- **Be heard at any public proceeding** involving release, plea, sentencing, reprieve, and pardon;
- **Confer with the Government attorney** in the case;
- **Full and timely restitution** as provided in law;
- **Timely and accurate information** about public proceeding involving the crime or of any release or escape of the accused; and
- Be treated with **fairness and with respect** for the victim's dignity and privacy.

### **Enforcement**

The bill enforces the rights provided by requiring that:

- Criminal courts ensure that victims be afforded the rights and that any decision denying relief be made on the record.
- Prosecutors and other law enforcement officials make their best efforts to see that crime victims are notified of and accorded these rights.

If any federal court denies these rights, a victim may apply for a **writ of mandamus** for immediate relief.

#### **Definition:**

A "crime victim" is a person directly and proximately harmed as a result of the commission of any offense. If the crime victim is under 18, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or representatives of the crime victim's estate, family members or persons appointed by the court, may assert the crime victim's rights.

**The defendant cannot be the representative or guardian.**

#### **Standing:**

Only the crime victim, his or her lawful representative or the government attorney may assert these rights.

#### **Retrial:**

In no case can the failure to afford a right result in a new trial.

#### **Large number of victims:**

The court must fashion a procedure to provide for the rights of the victims, when the number of victims makes it impracticable to accord all them the rights outlined in the legislation.

#### **Compliance:**

The Attorney General, within one year of enactment must establish regulations to enforce the rights of crime victims and ensure compliance.

### **Funding**

Additionally, the legislation authorizes \$122.3 million for the Department of Justice for grants to provide these rights and encourage States to provide these rights in State law. This includes:

- \$22 million to the U. S. Attorneys' Victims Witness Offices to improve services to federal crime victims;
- \$22 million to the Office for Victims of Crime to enhance notification to federal crime victims;
- \$2.3 million to the Office for Victims of Crime to administer a new victims' rights enforcement project;
- \$51 million to the Office for Victims of Crime for the support of the National Crime Victim Law Institute's projects to enforce victims' rights, including 11 legal clinics; and

- \$25 million for grants to States to develop and implement state-of-the-art victim notification systems.

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